

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 30, 2015
84th Legislature, Number 60
The House convenes at 10 a.m.
Part One

Twenty bills and one joint resolution are on the daily calendar for second-reading consideration today. The bills and joint resolutions analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.



Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Thursday, April 30, 2015

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Part 1

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SUBJECT: Providing for the selection of transportation projects and related plans

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Pickett, Martinez, Burkett, Y. Davis, Fletcher, Harless, Israel,
Murr, Paddie, Phillips, Simmons

0 nays

1 absent — McClendon

WITNESSES: For — Terri Hall, Texas TURF, Texans for Toll-free Highways; Brandon Janes, Transportation Advocates of Texas; Don Dixon; Johnny Weisman; *(Registered, but did not testify: Anne O’Ryan, AAA Texas; Bob Jones, ACEC-Texas; Jennifer Newton, AGC of Texas; C. Brian Cassidy, Alamo RMA, Cameron County RMA, Camino Real RMA, Central Texas RMA, Grayson County RMA, North East Texas RMA; Gary Bushell, Alliance for I-69 Texas, I-14/US 190/ Gulf Coast Strategic Highway Coalition; Dana Harris, Austin Chamber of Commerce; Seth Mitchell, Bexar County Commissioners Court; TJ Patterson, City of Fort Worth; Charles Reed, Dallas County; Brandi Bird, Dallas Regional Mobility Coalition; Byron Campbell and Drew Campbell, DRMC; Matthew Geske, Fort Worth Chamber of Commerce; Donna Warndorf, Harris County; Chris Shields, San Antonio Chamber of Commerce; Victor Boyer, San Antonio Mobility Coalition, Inc.; Mark Mendez, Tarrant County Commissioners Court; Vic Suhm, Tarrant Regional Transportation Coalition; Richard A. (Tony) Bennett, Texas Association of Manufacturers; Bill Hammond, Texas Association of Business; Steven Garza and Daniel Gonzalez, Texas Association of Realtors; Justin Yancy, Texas Business Leadership Council; Donald Lee, Texas Conference of Urban Counties; Lawrence Olsen, Texas Good Roads Association; Chuck DeVore, Texas Public Policy Foundation; Jennifer McEwan, Texas Transportation Alliance; Les Findeisen, Texas Trucking Association; Deece Eckstein, Travis County Commissioners Court; Conrad John, Travis County Commissioners Court; Tara Snowden, Zachry Corporation; Teresa Beckmeyer)*

Against — Dennis Borel, Coalition of Texans with Disabilities;

(Registered, but did not testify: John Patrick, Texas AFL-CIO; Maxie Gallardo, Workers Defense Project)

On — Michael Morris, NCTCOG; Duane Gordy; *(Registered, but did not testify: Dick Lavine, Center for Public Policy Priorities; James Hernandez, Harris County and Harris County Toll Road Authority; Donna Warndorf, Harris County, Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Scott Haywood, Move Texas Forward; John Barton, James Bass, and Joe Weber, Texas Department of Transportation; Ronald Hufford, Texas Forestry Association; Victor Vandergriff, Texas Transportation Commission)*

DIGEST:

CSHB 13 would establish various requirements relating to the selection of projects and the allocation of funds for the Texas Department of Transportation (TxDOT), the Texas Transportation Commission (TTC), and transportation planning organizations.

Specifically, the bill would require that the Texas Transportation Commission (TTC) initiate a process to review its categories and formulas relating to allocating transportation funding by October 1, 2015. This review process would be required to include input from all planning organizations in the state. Following this review process, the bill would obligate the TTC to adopt rules implementing updated funding categories and formulas and to provide detailed explanations for the difference on its website.

This bill would require each planning organization to develop a 10-year transportation plan to guide the use of funding allocated to the region. The first four years of this plan would be subject to the applicable standards in federal law. Department districts, with input from counties and municipalities, would be required to develop the plan for areas outside of a metropolitan planning organization's jurisdiction.

By September 1 of every odd-numbered year, TxDOT's chief financial officer would publish a cash flow forecast for a period of 10 years or more. The forecast would identify:

- the aggregate amount of all sources of funding available for

transportation projects;

- the amount previously committed to transportation projects;
- the amount not committed to transportation projects but that the department anticipated allocating during the forecast period through adopted formulas;
- the amount the department anticipated allocating during the forecast period through discretionary decisions of the commission; and
- the sources of all funds projected to be available during the forecast period, including bond proceeds, and an estimation of debt service payments associated with proceeds from bonds.

The bill would require planning organizations to develop project selection criteria, which would include consideration of:

- projected improvements to congestion and safety;
- projected effects on economic development opportunities;
- available funding;
- effects on the environment;
- socioeconomic effects; and
- any other factors deemed appropriate by the planning organization.

The bill would require planning organizations to select and prioritize projects in their region using these criteria. TxDOT would be required compile the project selections of planning organizations to develop a statewide transportation plan in accordance with federal law.

This bill would provide that any transfer of funds between categories by any method outside of established formulas be subject to public hearing, with a written justification for the transfer of the funds provided 30 days before the hearing.

If TxDOT received a funding increase for the 2016-17 biennium, or if a constitutional amendment providing additional money to the department was adopted, this bill would allow the commission to use the additional money to finance projects that otherwise would be financed using proceeds from either the sale of bonds and other public securities or

general obligation bonds. The TTC would determine whether or not the unused proceeds from those bonds could be used to finance projects that reduce congestion, increase capacity, reduce tolls, or promote safety. TTC would establish criteria for eligible projects funded under this authority. Any projects funded under this authority would have to be considered at a public hearing 30 days prior to approval. All provisions summarized in this paragraph would expire September 1, 2017.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 13 would increase effectiveness and transparency for transportation project selection in the state. In so doing, the bill would ensure the state was receiving the greatest possible return on investment. Transportation is a core state responsibility that is critical to Texas's growing economy, and the state should make certain that appropriations are used wisely and transparently.

TxDOT publishes the Unified Transportation Plan, a 10-year plan for transportation projects in Texas. This plan is more than 1,300 pages long, and it is difficult for a member of the public to understand and track. Changes to this plan can impact the allocation of significant sums of money to one project or another, but current law does not require a hearing for such changes. This bill would make these modifications more transparent by requiring written notification at least 30 days before a hearing with a justification for the change.

The state should not be overly specific in establishing guidelines for project-selection criteria because local entities better understand the needs of their jurisdiction and are better equipped to respond if changes to the criteria are necessary. If the bill were too specific in setting guidelines, the planning organization would have to wait until the next legislative session to reconstruct its criteria. Any suggested inclusions in the guidelines could be added to the criteria by a planning organization, such as those relating to lifecycle cost.

The guideline relating to available local funding would not cause an

increase in taxes or spark development of toll roads. The guideline merely would require consideration of available funding, and it would not assure that the project with the most local funding would be selected. Local governments could do any number of things to influence criteria drafted under this guideline, and raising taxes is not a likely possibility.

**OPPONENTS
SAY:**

CSHB 13 should be more specific when establishing points of consideration for the development of project selection criteria. The guidelines provided could be too broad and could lead to counterproductive variances. The bill also should require planning organizations to consider a lifecycle cost analysis of the project to ensure that all costs were taken into account when selecting projects.

Additionally, criteria established in this bill could have perverse incentives. Currently, it requires planning organizations to develop criteria about potential available local funding. This could incentivize local entities to raise taxes or find other sources of revenue, such as tolls. In a state where local taxes are higher than average, the Legislature should be mindful of such potential unintended consequences.

NOTES:

CSHJR 13 by Pickett, is set for second-reading consideration on today's Constitutional Amendments Calendar.

A related bill, CSHB 20 by Simmons, would require the Texas Department of Transportation to develop and implement a performance-based planning and programming process to quantify and report progress toward agency goals and objectives. CSHB 20 is set for second-reading consideration on today's Major State Calendar.

SUBJECT: Creating assessment metrics for transportation projects and planning

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Pickett, Martinez, Burkett, Fletcher, Harless, Israel, McClendon, Murr, Paddie, Phillips, Simmons

1 nay — Y. Davis

WITNESSES: For — (*Registered, but did not testify*: Steven Garza, Texas Association of REALTORS; Chuck DeVore, Texas Public Policy Foundation)

Against — (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Victor Boyer, San Antonio Mobility Coalition, Inc.; Vic Suhm, Tarrant Regional Transportation Coalition; Stephen Minick, Texas Asssociation of Business)

On — Michael Morris, NCTCOG; David Ellis, Texas A&M Transportation Institute; John Barton, James Bass, and Victor Vandergriff, Texas Department of Transportation; (*Registered, but did not testify*: Colin Parrish, Fort Bend County Toll Road Authority; James Hernandez, Harris County, Texas and Harris County Toll Road Authority; Lloyd Potter, Office of the State Demographer; Joe Weber, Texas Department of Transportation; Marc Williams, Texas Department of Transportation; Terri Hall, Texas TURF & Texans for Toll-free Highways)

BACKGROUND: Transportation Code, sec. 201.809 requires the Texas Department of Transportation (TxDOT) to publish an annual report about the status of the state's transportation goals. In addition to information about the progress toward goals, the report must include the status of major priority projects, a summary of the statewide project implementation benchmarks, and information about the accuracy of fiscal forecasts. These reports are disaggregated by transportation districts and distributed to the Legislature. District reports also are distributed to local governments in the district.

Transportation Code, ch. 201, subch. P directs TxDOT to have a ten-year unified transportation program that guides the development and funding

of transportation projects. The program includes target funding levels updated annually and projects that TxDOT plans to implement. The Texas Transportation Commission directs the criteria for project selection, funding categories, and the phases for project implementation. This unified transportation program is published on TxDOT's website and in other appropriate media.

DIGEST: CSHB 20 would require the Texas Department of Transportation (TxDOT) to develop a performance-based planning and programming process. The process would be used by the executive and legislative branches to assess how well TxDOT was achieving the goals and objectives they impose. Local transportation entities would be required to develop funding prioritization guidelines and submit them to TxDOT. It would also direct the formation of joint House and Senate select committees to study transportation planning and financing and repeal the statute allowing TxDOT to establish advisory committees.

Statewide transportation report. CSHB 20 would amend Transportation Code, sec. 201.809 to include performance measures and metrics in the annual statewide transportation report. Performance measures and metrics would be integrated into the review of statewide planning, rural planning, and the unified transportation program. These metrics and measures also would be used in the evaluation of future projects and project delivery. Moreover, the metrics and measures would be used by TxDOT and the Transportation Commission to assess the performance of the state transportation system, evaluate the effectiveness of individual transportation projects, inform policymakers and stakeholders, and demonstrate transparency and accountability to the public. TxDOT would be required to report performance metrics and measures on a regular schedule.

CSHB 20 would direct TxDOT to develop and implement specific metrics and measures that would be approved by the Transportation Commission. TxDOT would be required to develop performance metrics for sustainable objectives, including congestion reduction, safety enhancements, expansion of economic opportunity, preservation of existing assets, environmental sustainability, system reliability, freight mobility, cost effectiveness, contracting, and public participation.

These evaluation tools would not replace the budgetary performance measures established in the general appropriations act.

Local transportation prioritization. Local transportation entities would be required to develop funding prioritization guidelines for their projects and submit them to TxDOT. These guidelines would have to include the time frames of projects, the readiness of projects, projects' viability and sustainability, and local criteria that reflect the goals unique to the entity. Local entities also would have to consider any criteria established by the Transportation Commission. Local prioritization of projects would have to include both short-term and long-term projects and with emphasis on projects already approved in a regional transportation plan.

Scoring-based funding system. CSHB 20 would require TxDOT to develop guidelines for funding transportation projects based on a scoring system. The Transportation Commission could make discretionary funding decisions for no more than 10 percent of TxDOT's current biennial budget. In scoring projects, TxDOT would have to prioritize projects that:

- addressed safety, maintenance, congestion, and connectivity;
- provided assistance to both rural and urban areas;
- provided regional balance;
- met a high percentage of a community's infrastructure needs;
- had available funding;
- could begin without much delay; and
- included public input in the planning process and had public support.

CSHB 20 also would require TxDOT to consider the following concerns in funding projects:

- local and federal contributions to projects;
- the ability of local entities to repay loans;
- the urgency of the need for a project;
- the start dates and status of preliminary planning and design;

- the acquisition of rights-of-way and easements;
- the impact on the community; and
- the priority assigned by the local transportation entity.

Select committees. CSHB 20 would direct the speaker of the House and the lieutenant governor to appoint nine members each to respective House and Senate Select Committees on Transportation Planning. These committees jointly or separately would examine issues related to transportation planning, financing, and performance, as well as TxDOT's collaboration with stakeholder groups such as elected officials, local governments, and metropolitan planning organizations. TxDOT would be required to submit an initial report to these committees by September 1, 2015. The committees would submit recommendations in a report to the Legislature by November 1, 2016.

Advisory committees. CSHB 20 would repeal Transportation Code, sec. 201.117, which gives TxDOT the authority to establish advisory committees under current law.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

By requiring the Texas Department of Transportation (TxDOT) to implement a performance-based planning and programming process, CSHB 20 would provide a framework to ensure transportation funds were distributed in an objective, transparent fashion. The bill also would provide public accountability for each dollar spent by requiring that information be published in a format that was easy to understand.

In 2014, voter approval of Proposition 1, which amended the Texas Constitution to dedicate a portion of revenue from oil and gas production taxes to the State Highway Fund, brought greater public attention to the funding needs of transportation projects in Texas. Improving the state's transportation infrastructure is a high priority for Texans, but concern has grown about how transportation funds are spent. Greater transparency and accountability is needed in the funding process, and CSHB 20 would address this need by introducing a scoring system for prioritizing

transportation funding.

In 2013, the 83rd Legislature enacted HB 4 by Ritter, which introduced a performance-based system for the Texas Water Development Board to allocate funding to projects. This legislation has been successful, and CSHB 20 would apply its system to transportation funding by using objective performance metrics, rather than bureaucratic discretion, to allocate funding for projects.

Objective criteria are needed for making transportation funding decisions. Without objective criteria, politics can come into play. Because powerful groups can influence funding decisions, political involvement can mean that the state does not get the best return on investment for its transportation dollars. The performance-based metrics and measurements in CSHB 20 would help Texas get the best return on investment.

CSHB 20 would encourage the Texas Transportation Commission to examine transportation needs for the state as a whole, rather than on a region-by-region basis. If projects were needed in particular rural or urban areas, the scoring system would highlight these projects.

While the bill would remove TxDOT's statutory authority to establish advisory committees, public input would be one of the scoring criteria for evaluating projects. Stakeholders would be encouraged to provide input at the project level.

**OPPONENTS
SAY:**

CSHB 20 could create significant paperwork for TxDOT with little apparent benefit. Generating these reports would duplicate existing efforts at the department while burdening staff resources that could be put to better use. TxDOT and the Transportation Commission already take into account the factors that CSHB 20 would require for funding prioritization. Specifying these factors in statute could tie the hands of the agency.

By directing the use of metrics for funding priorities, CSHB 20 could take discretion away from the Transportation Commission. Only 10 percent of the budget could be used on discretionary funding. CSHB 20 could negatively affect rural areas because the Transportation Commission often uses its discretion to direct funding to projects in rural areas and the Rio

Grande Valley that otherwise might not score well on certain metrics. It is not clear that quantitative metrics could capture the real transportation needs of Texans.

CSHB 20 would revoke TxDOT's statutory authority to establish advisory committees that give important stakeholders, such as freight carriers, mass transit advocates, and cyclists a voice in transportation planning decisions. Public and stakeholder input is important in the process of planning and implementing transportation projects. Eliminating these committees would negatively affect the department's ability to address the transportation needs of all Texans.

The metrics would further codify a highway bias at TxDOT, making it even more challenging to get funding for other types of transportation projects. The metrics developed by the agency might not adequately reflect the value of other types of transportation projects, such as mass transit. The advisory committees are an important way to ensure that non-highway projects get a hearing.

SUBJECT: Continuing the Texas Facilities Commission; revising Sunset schedules

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Cook, Giddings, Craddick, Geren, Harless, Huberty, Kuempel, Sylvester Turner

0 nays

4 absent — Farney, Farrar, Oliveira, Smithee

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Ken Levine, Sunset Advisory Commission)

BACKGROUND: The Texas Facilities Commission was the subject of a January 2015 staff report and Sunset Advisory Commission recommendations as part of a limited-scope review that followed a full review of the agency conducted in the 2012-13 biennium. The re-review found no new issues, and the Sunset Commission recommended the agency be continued for six years.

HB 1675 by D. Bonnen, enacted by the 83rd Legislature, added the Sulphur River Basin Authority to limited Sunset review and continued the agency until September 1, 2017. Legislation moving forward this session would include the authority with other river authorities on a schedule for limited Sunset review. The river authorities would be subject to a review as if they were state agencies but could not be abolished. HB 1290 by Keffer passed the House on April 23, and SB 523 by Birdwell passed the Senate on April 9.

The Credit Union Department and Commission is scheduled for Sunset review during the 2020-21 review cycle. Other state financial agencies are scheduled for Sunset review during the 2018-19 review cycle.

DIGEST: HB 3123 would continue the Texas Facilities Commission until September 1, 2021.

The bill would repeal the provision in law providing for Sunset review of the Sulphur River Basin Authority in 2017.

It would change the Sunset date for the Credit Union Department and Credit Union Commission from 2021 to 2019.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUBJECT: Depositing a portion of the sales tax to the state highway fund

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Pickett, Martinez, Burkett, Y. Davis, Fletcher, Harless, Israel, Murr, Paddie, Phillips, Simmons

0 nays

1 absent — McClendon

WITNESSES: For — Bob Jones, ACEC-Texas; Scott Haywood, Move Texas Forward; Brandon Janes, Transportation Advocates of Texas; Don Dixon; Johnny Weisman; (*Registered, but did not testify*: Anne O’Ryan, AAA Texas; Jennifer Newton, AGC of Texas; C. Brian Cassidy, Alamo RMA, Cameron County RMA, Camino Real RMA, Central Texas RMA, Grayson County RMA, North East Texas RMA; Gary Bushell, Alliance for I-69 Texas, I-14/US 190/Gulf Coast Strategic Highway Coalition; Dana Harris, Austin Chamber of Commerce; Seth Mitchell, Bexar County Commissioners Court; TJ Patterson, City of Fort Worth; Megan Dodge, City of San Antonio; Charles Reed, Dallas County; Brandi Bird, Dallas Regional Mobility Coalition; Byron Campbell and Drew Campbell, DRMC; Matthew Geske, Fort Worth Chamber of Commerce; James Hernandez, Harris County, Harris County Toll Road Authority; Donna Warndorf, Harris County; Ray Sullivan, HNTB; Chris Shields, San Antonio Chamber of Commerce; Victor Boyer, San Antonio Mobility Coalition, Inc.; Mark Mendez, Tarrant County Commissioners Court; Vic Suhm, Tarrant Regional Transportation Coalition; Richard A. (Tony) Bennett, Texas Association of Manufacturers; Bill Hammond, Texas Association of Business; Steven Garza, and Daniel Gonzalez, Texas Association of REALTORS; Justin Yancy, Texas Business Leadership Council; Donald Lee, Texas Conference of Urban Counties; Lawrence Olsen, Texas Good Roads Association; Shanna Igo, Texas Municipal League; Jennifer McEwan, Texas Transportation Alliance; Les Findeisen, Texas Trucking Association; Deece Eckstein and Conrad John, Travis County Commissioners Court; Tara Snowden, Zachry Corporation; Don Durden; James McCarley)

Against — Dick Lavine, Center for Public Policy Priorities; Dennis Borel, Coalition of Texans with Disabilities; (*Registered, but did not testify*: John Patrick, Texas AFL-CIO; Ted Melina Raab, Texas American Federation of Teachers; Maxie Gallardo, Workers Defense Project)

On — Duane Gordy; Cyrus Reed, Lone Star Chapter Sierra Club; Michael Morris, NCTCOG; Terri Hall, Texas TURF, Texans for Toll-Free Highways; (*Registered, but did not testify*: John Barton, James Bass, and Joe Weber, Texas Department of Transportation; Ronald Hufford, Texas Forestry Association; Victor Vandergriff, Texas Transportation Commission)

DIGEST: CSHJR 13 would require the comptroller to deposit to the state highway fund \$3 billion of net sales tax revenue in each fiscal year. This provision would take effect September 1, 2017.

The joint resolution also would require the comptroller in each fiscal year to deposit to the state highway fund 2 percent of the net revenue derived from the state sales and use tax that was not deposited as part of the \$3 billion. This provision would take effect September 1, 2016.

CSHJR 13 would provide that these funds could be appropriated only to:

- construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or
- repay the principal of and interest on certain bonds and other public securities, bond enhancement agreements, and general obligation bonds.

These provisions would expire September 1, 2026.

The proposal would be presented to the voters at an election on November 3, 2015. The ballot proposal would read: “The constitutional amendment temporarily dedicating a portion of state sales and use tax revenue to increase transportation funding.”

SUPPORTERS CSHJR 13 would provide a steady, consistent funding source for

SAY: transportation projects across the state by dedicating a portion of the sales and use tax to the state highway fund.

Transit costs are a significant drag on the economy when the transportation system does not work properly. The Texas A&M Transportation Institute found that delays and fuel costs as a result of congestion cost the state \$10.1 billion and more than 472 million hours of travel time. TRIP, a national transportation research group, found that an inadequate transportation system costs Texas more than \$23 billion, which includes costs from congestion, vehicle maintenance, and public safety .

CSHJR 13 not only would increase current capacity and address current needs, but it would provide for funding growth with the growth of the economy. Because CSHJR 13 would deposit a percentage of sales tax revenue to the state highway fund, this revenue would increase when consumption increased and economic growth occurred.

The current haphazard and variable funding system has caused a variety of consequences. Debt service costs TxDOT more than a billion dollars. Last biennium, the department paid more in debt service than it did to finance new construction. This was necessitated by variable appropriations in conjunction with payments for various projects coming due. Because transportation projects often cost a substantial amount and take several years to complete, it is not practical to disburse the entire cost of the project in one year or one biennium. If an expected appropriation is not received, then the department may have to delay an important project to finish out a previous one.

One-time appropriations of money also are likely to be less effectively spent. Because there is no guarantee that funding will be maintained for the next biennium, the increase in funding often goes toward shovel-ready or short-term projects in areas that might not yield the greatest return on investment.

Additionally, the variable nature of the funding means that it is harder for contractors to keep a trained workforce. After a project is finished, there is no guarantee there will be another one available, which can lead to layoffs. CSHJR 13 would provide a baseline of funding so that projects

could continue as they were needed to facilitate economic activity.

Specifics of the transportation planning process contribute to the need for a steady funding source. Metropolitan Planning Organizations are required by federal law to develop a short-term Transportation Improvement Program (TIP). TIPs are fiscally restrained, meaning that they can include projects in the plan only for which there is money in the bank. Projects cannot be included in TIPs if funding for them is unreliable.

The Legislature does not need extensive discretion in the budgetary process, particularly where such a vital state priority is concerned. Dedicating money to transportation not only would provide a consistent funding source for highway construction, it would contribute to an effort to make the budgetary process simpler and more efficient.

Although a hike in the gas tax would help fund transportation temporarily, it would not be effective in the long run. Thanks to more fuel-efficient vehicles, revenues from the gas tax are declining even as the number of miles driven, and the corresponding road maintenance costs, are rising. This problem will only get worse as more people opt to drive electric vehicles and hybrids. Allocating surplus revenue would not adequately fund transportation either. In fact, it probably would exacerbate the variability problem because the Legislature cannot expect surplus revenue during every budget period.

OPPONENTS
SAY:

While funding transportation is an important priority, there are better alternatives to CSHJR 13. The proposed resolution would tie the hands of the state in future years by constitutionally dedicating more than \$7 billion in funds every biennium. The Legislature already has discretion over only 17 percent of the state budget. This means that in tight fiscal times critical state services like public education and health and human services could see bigger cuts.

The Legislature could raise the gas tax, of which more than 50 percent of the proceeds are dedicated to the state highway fund. The state also has a substantial amount of surplus revenue that it could allocate. There is no reason to handicap the state's ability to respond to future budget crises.

NOTES: According to the Legislative Budget Board's fiscal note, CSHJR 13 would have an estimated negative net impact to general revenue of about \$633 million through fiscal 2016-17. The fiscal note also states that the negative impact to general revenue would increase to about \$7.3 billion in fiscal 2018-19.

CSHB 13 by Pickett is set for second-reading consideration on today's calendar.

SUBJECT: Reforming economic incentives, creating university research initiative

COMMITTEE: Economic and Small Business Development — committee substitute recommended

VOTE: 9 ayes — Button, Johnson, C. Anderson, Faircloth, Isaac, Metcalf, E. Rodriguez, Villalba, Vo
0 nays

WITNESSES: For — Drew Scheberle, Greater Austin Chamber of Commerce; Bill Hammond, Richardson Chamber of Commerce, Texas Association of Business; Thomas Kowalski, Texas Healthcare and Bioscience Institute; Brian Sullivan, Texas Hotel and Lodging Association; Dale Craymer, Texas Taxpayers and Research Association; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Chris Shields, City of San Antonio, San Antonio Chamber of Commerce, San Antonio Sports; Jay Barksdale, Dallas Regional Chamber; Susan Blackwood, Harris County Houston Sports Authority; Sarah Matz, TechAmerica; Fred Shannon, Texas Association of Manufacturers; Carlton Schwab, Texas Economic Development Council; Max Jones, The Greater Houston Partnership)

Against — None

On — James LeBas, Texas Chemical Council; Larry Peterson, Texas Foundation for Innovative Communities; Ed Heimlich; (*Registered, but did not testify*: Phillip Ashley, Comptroller of Public Accounts; Jose Romano, Office of the Governor; John Young, State Auditor's Office; Paul Ballard, Marianne Dwight, and Corinne Hall, Texas Treasury Trust Safekeeping Co.)

BACKGROUND: Government Code, ch. 490 established the Emerging Technology Fund as a trusted program within the Office of the Governor. Created in 2005, the fund provides grants, equity stakes, and other forms of investment to fund technology research at companies and higher education institutions with the intention of stimulating job growth and helping technology start-ups bring their products to market.

Government Code, ch. 489 established the Texas Economic Development Bank. Created in 2003, the bank houses a number of financing and other economic development programs to provide competitive, cost-effective state incentives to expanding businesses operating or relocating to Texas. The bank also has programs designed to increase small, medium, and historically underutilized businesses' access to credit.

DIGEST: CSHB 26 would modify several state economic development programs. The changes would include:

- abolishing the Emerging Technology Fund and transferring that program's unexpended balances and authority over its existing investments;
- creating a new initiative to provide matching funds for state universities to recruit certain recognized faculty;
- eliminating certain programs within the Texas Economic Development Bank;
- expanding the Texas Enterprise Fund's authority to approve certain higher education research commercialization grants and shortening the fund's standard approval period for grants;
- establishing a board to oversee economic incentive programs;
- creating an online information and application system for economic incentives; and
- renaming the Major Events Trust Fund.

Emerging Technology Fund. The bill would amend Government Code, ch. 490 to abolish the Emerging Technology Fund on September 1, 2015. The state's current equity position in companies that have already received awards from the Emerging Technology Fund would be transferred to the Texas Treasury Safekeeping Trust Company. The trust company would be required to manage the equity portfolio under the prudent investor standard of care. Any proceeds earned from the sale of investments would go to general revenue. Money deposited in the Emerging Technology Fund as a gift, grant, or donation would be spent or distributed in accordance with the terms of the gift, grant or donation.

Any unencumbered balance that remained in the Emerging Technology Fund could be appropriated only to:

- the Texas Research Incentive Program;
- the Texas Research University Fund;
- the Governor’s University Research Initiative; and
- the comptroller’s office to cover expenses associated with managing the state’s portfolio of equity positions and investments in projects funded under the former Emerging Technology Fund.

The trust company would be required to perform to the maximum extent practicable an annual valuation of the equity shares from projects that received funding from the former Emerging Technology Fund in its portfolio. The trust company also would be required to submit an annual report to the lieutenant governor, House speaker, and legislative standing committees with primary jurisdiction on economic development and post on the trust company’s website a report on any valuation performed during the previous fiscal year.

The bill also would continue through 2030 a requirement that the governor create an annual report detailing the number of jobs created and the outcomes of all projects that received Emerging Technology Fund investments. The governor would be required to exclude from the report information that is confidential by law.

If a conflict existed between this bill and another bill enacted by the 84th Legislature during its regular session that related to the Emerging Technology Fund, HB 26 would control, without regard to the relative dates of enactment.

Governor’s University Research Initiative. The bill would amend Education Code, ch. 62 to establish a fund to facilitate the recruitment of distinguished researchers to eligible Texas universities. The fund would be administered by the Economic Development and Tourism Office within the governor’s office. The fund would award matching grants to universities for recruiting distinguished researchers, defined by the bill as Nobel laureates, members of a national honorific society, or individuals who have attained a similar honor.

The bill would establish standards and procedures for identifying and selecting researchers whom grant proposals may be approved to recruit. Information collected on the identity of these individuals would be confidential unless and until the researcher was hired by the recruiting institution.

Priority would be given to grant proposals that focused on recruiting professors distinguished in the fields of science, technology, engineering, or mathematics and proposals involving those fields that:

- demonstrated a reasonable probability of enhancing Texas's national and global economic competitiveness;
- demonstrated a reasonable probability of creating a recognized locus of research superiority or a unique locus of research;
- were matched with a significant amount of federal or private funding;
- were interdisciplinary and collaborative; or
- included a strategic plan for intellectual property development and commercialization of technology.

The bill would establish an advisory board to assist the governor's office in reviewing grant proposals. The advisory board would be composed of at least nine members, and to the extent possible one-third would have a background in finance, one-third would have an academic background in science, technology, engineering, or mathematics, and one-third would be members of the public. Members would not be paid but could be reimbursed for expenses incurred in serving on the board. Other board eligibility provisions are defined in the bill.

The board would be exempt from standard government procedures for membership composition, reimbursement of expenses, budgetary restrictions, and other administrative issues as well as requirements on surpluses or interest in the fund. The board would have 14 days to issue a recommendation to the governor on a grant application, and the governor would have 14 days to approve or disapprove a grant application.

The awarding of the grant could not be considered a basis to reduce the

amount of money otherwise appropriated to a university. A researcher that already is an employee of a different university in Texas would not be eligible for a grant.

Texas Economic Development Bank programs. The bill would abolish the Texas Small Business Industrial Development Corporation and the linked deposit program within the Texas Economic Development Bank. The linked deposit program would be allowed to continue for the immediate purpose of administering any loans granted to a small, medium, or historically underutilized business before the bill was enacted, and to pursue remedies for borrowers who defaulted on their loans or banks that were not in compliance with the law.

As soon as practicable after the effective date of the bill, the Texas Economic Development Bank would be required to send any remaining funds in the Texas Small Business Industrial Development Corporation to the comptroller's office to be deposited in the general revenue fund.

Texas Enterprise Fund authority. The bill would amend Government Code, ch. 481 to allow the Texas Enterprise Fund to provide grants for commercialization of intellectual property derived from research developed at Texas universities. To be eligible for funding, a research project would have to be supported by funding from one or more private entities in addition to any funding from the university. The state's investment could not be more than 50 percent of the project's funding.

The bill also would reduce from 91 days to 31 days the amount of time that the lieutenant governor and House speaker were provided to approve a grant from the Texas Enterprise Fund.

Economic Incentive Oversight Board. The bill would add Government Code, ch. 490G to establish the Economic Incentive Oversight Board. The Economic Incentive Oversight Board would be tasked with examining the effectiveness and efficiency of economic incentive programs and funds administered by the governor, the comptroller, or the Department of Agriculture. The board would examine only programs for which the administering agencies had discretion in whether to grant monetary or tax incentives.

The board would be required to establish a periodic review schedule and create an annual report and could recommend a program or fund be audited by the state auditor. It also would provide recommendations to the Legislature regarding the economic incentive programs under review.

The board would have eight members, including:

- two public members appointed by the House speaker, one of whom must be from a rural county;
- two public members appointed by the lieutenant governor, one of whom must be from a rural county;
- two public members appointed by the comptroller; and
- two public members appointed by the governor.

The governor would appoint the presiding officer of the board and would provide administrative support and staff to the board. Each appointee would serve at the pleasure of the appointing officer. Each appointing officer would be required to appoint at least one member to the board who had economic development expertise. Board members would be required to disclose any conflicts of interest. Members could be reimbursed for expenses incurred in serving on the board. The bill also would establish provisions governing conflicts of interest for board members.

Economic Development Information and Application System. The bill would establish a website that would provide:

- a single location that a business that was considering moving to Texas could find information about monetary and tax incentives;
- an interactive tool that would allow a business to determine if it was eligible for a monetary or tax incentive; and
- an application that a business could fill out and submit online.

The Department of Information Resources, in coordination with the Economic Development and Tourism Office and the comptroller would direct, coordinate, and assist state agencies to establish a common application and a standard format for announcing monetary and tax incentive opportunities.

The Major Events Trust Fund. The bill would change the name of the Major Events Trust Fund to the Major Events Reimbursement Program.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 26 would provide comprehensive, common-sense reforms for Texas' economic development incentive programs while balancing the state's need to compete for economic growth with a commitment to transparency and accountability.

Eliminating the Emerging Technology Fund would ensure that Texas is not in the business of picking winners and losers. Even sophisticated private firms that specialize in early-stage funding can make errors of judgment, as evidenced by the dot-com bubble of the 1990s. It is important that the state end the use of taxpayer money for something as speculative and volatile as venture capital.

Texas has some of the most advanced research universities in the world, and the state supports these institutions with billions of dollars every year. However, a significant percentage of research that emerges from Texas universities is commercialized in other parts of the country. By allowing the Texas Enterprise Fund to provide commercialization grants in certain circumstances, this bill would provide an incentive for research to stay in Texas. As an added benefit, the grants would go to public universities and not private corporations as had been the case with the Emerging Technology Fund.

The Governor's University Research Initiative would help Texas universities attract some of the best researchers in the world. The bill also ensures that the matching grants provided under the initiative could be used only to attract researchers from higher education institutions outside Texas, so Texas universities would not need to worry about the bill costing them valued faculty.

Economic development is a long-term process, and establishing the Economic Incentive Oversight Board would help the state analyze the effectiveness of its economic incentives and suggest reforms and areas of opportunity to the Legislature in the future. Keeping these programs

nimble, effective, and accountable would ensure that the state was well positioned to promote cutting-edge research.

The bill would simplify the process that companies have to go through to do business in Texas by centralizing and standardizing economic incentives and making the information available online. In deciding where to do business, companies want a simple and straightforward process. Allowing businesses to assess their options quickly and accurately while keeping their information confidential would help attract more jobs to the state.

Some critics portray the Major Events Trust Fund as a grant program for big companies, when in fact the program merely reimburses the costs of hosting a large event with the tax proceeds generated by the event. Renaming the Major Events Trust Fund would help clarify what the program was meant to do and how it works.

OPPONENTS
SAY:

CSHB 26 could fail to take the long view of economic development in the state. Texas cannot take its economic growth for granted. Other states are performing better economically than they were a few years ago, which, combined with the uncertainty surrounding oil prices, could erode Texas's competitive edge in job creation.

Maintaining an environment with strong job creation requires a commitment to innovation and research. By eliminating the Emerging Technology Fund, the bill could handicap Texas startups. Startups, especially in biomedical research, are highly regulated and extremely complex, and these businesses typically take about seven years to establish themselves before they can begin hiring employees on a large scale.

California and New York both have a venture capital industry that is significantly larger than the venture capital industry in Texas, and these states also have an extensive commitment to early-stage funding. Without a similar willingness to make long-term commitments to early-stage funding, Texas may not be able to compete with these other states.

Focusing on grants for research commercialization would not signal a

long-term commitment to research in the same way as taking equity in a startup. A well-managed, early-stage funding program should pay for itself and when done correctly, can be stable and profitable. A portfolio of early-stage funding investments would pay for itself, whereas research commercialization grants would not show the state any direct return.

The bill may not be choosing the right path with its emphasis on recruiting Nobel laureates and members of national honor societies to public universities. The Nobel prize is a tremendously prestigious award and recruiting distinguished professors may raise the stature of Texas universities, but those awards recognize research that has already been done. The state would be better served by using matching grants to recruit up-and-coming researchers.

OTHER
OPPONENTS
SAY:

CSHB 26 would not go far enough to remove government interference in the private sector. Small businesses already face difficulty competing in the market. When the government props up high-tech startups with multimillion-dollar grants and incentives, small businesses simply cannot compete. The state of Texas should not be in the business of picking winners and losers and should instead let the market decide what research is most valuable.

NOTES:

The Legislative Budget Board anticipates that CSHB 26 would have a positive fiscal impact to the General Revenue Fund of about \$846,000 through the 2016-17 biennium.

SUBJECT: Providing for the diversion, treatment, and use of marine seawater

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: *(On committee substitute:)*
10 ayes — Keffer, Ashby, D. Bonnen, Burns, Frank, Kacal, T. King,
Larson, Lucio, Nevárez

0 nays

1 absent — Workman

WITNESSES: *(On committee substitute:)*
For — Stefan Schuster, James Murphy, and Todd Votteler, Guadalupe-Blanco River Authority; Brian Sledge, STW Resources; Kyle Frazier, Texas Desalination Association; *(Registered, but did not testify:)* Buddy Garcia, Brownsville Public Utilities Board; Mindy Ellmer, Gulf Coast Water Authority, Poseidon Water; Patricia Hayes, Texas Association of Groundwater Owners and Producers; Donald Lee, Texas Conference of Urban Counties; Shanna Igo, Texas Municipal League; Charles Porter)

Against — Myron Hess, National Wildlife Federation; Ken Kramer, Sierra Club - Lone Star Chapter

On — Chloe Lieberknecht, The Nature Conservancy; *(Registered, but did not testify:)* Robert Mace, Texas Water Development Board)

BACKGROUND: Diversion of marine seawater in Texas requires a water use permit from the Texas Commission on Environmental Quality (TCEQ).

The discharge of waste from a seawater desalination process to surface water in the state, including the Gulf of Mexico, requires a wastewater discharge authorization.

Seawater desalination treatment used by public water systems to convert seawater to drinking water requires a pilot study to verify the proposed treatment will be able to remove the salts adequately. Since 2002, TWDB

has funded two seawater desalination plant pilot studies — one with the Brownsville Public Utility Board and one with the Laguna Madre Water District, which serves South Padre Island, Port Isabel and the surrounding area.

DIGEST:

(This analysis reflects the author's intended floor substitute.)

The floor substitute for HB 2031 would allow the diversion and use of state marine seawater for beneficial purposes, requiring permits for both the diversion of state marine seawater and the discharge of treated seawater and desalination waste back into surface water sources. Both actions would be prohibited from occurring within coastal bays and estuaries. The bill also would require a joint study between the Texas Parks and Wildlife Department (TPWD) and the General Land Office (GLO) to identify diversion and discharge zones and provide recommendations on where intake and discharge structures could be permitted by the Texas Commission on Environmental Quality (TCEQ). The bill would provide for notice requirements, as well as opportunity for public hearings and contested case hearings for any project within three miles of the coast.

Diversion and use of marine seawater. A person could divert and use state marine seawater for any beneficial purpose as long as the seawater was treated according to TCEQ rules. Treatment requirements could differ depending on use.

The point of diversion of marine seawater could not be in a bay or estuary. A person would be required to obtain a permit if the point of diversion was within three miles of the coast or if the seawater contained a total dissolved solids concentration of less than 20,000 milligrams per liter. Construction of a facility to divert marine seawater could not begin until a yearly average of samples taken monthly determined the total dissolved solids concentration at the water source.

TCEQ, by rule, would have to adopt an expedited permit process, including notice, opportunity to submit written comment, and opportunity for a contested case hearing. Permits must address the points from which, and the rate at which, a facility could divert marine seawater.

TCEQ also would have to prescribe, by rule, reasonable measures to minimize impingement and entrainment.

Discharge of treated seawater or the resulting waste. A person would have to obtain a permit to discharge treated marine seawater into a natural stream, lake, or other impoundment, as well as for the discharge of desalination waste into the Gulf of Mexico. Desalination waste could not be discharged into a bay or estuary.

A person would have to treat marine seawater to at least the same standard as the water quality standards adopted by TCEQ applicable to the receiving stream or impoundment before discharging the treated seawater. They also must comply with state and federal requirements when discharging desalination waste into the Gulf of Mexico.

TCEQ, by rule, would have to adopt an expedited permit process for both the discharge of treated marine seawater into a surface water source and the discharge of desalination waste within three miles of the coast. The rules must provide for notice, an opportunity to submit written comment, an opportunity to request a public meeting, and an opportunity for a contested case hearing.

TCEQ rules for discharge of desalination waste farther than three miles from the coast must provide for notice and an opportunity to submit written comment.

Conveyance of treated marine seawater. With prior authorization by the TCEQ, as well as a discharge permit, a person could use the bed and banks of any flowing natural stream, or a lake, reservoir, or other impoundment to convey marine seawater that had been treated to meet standards at least as stringent as the water quality standards adopted by the TCEQ applicable to the receiving stream or impoundment. This water could be used only by the person who received the authorization.

TCEQ must provide notice and take written comment regarding commission actions relating to an authorization to use the bed and banks of a flowing natural stream, a lake, reservoir, or other impoundment to convey treated marine seawater. An opportunity for a contested case

hearing would be provided only when a lake, reservoir, or other impoundment was involved to convey treated marine seawater but not when using a natural stream.

Diversion and discharge zones. The floor substitute for HB 2031 would require the Texas Parks and Wildlife Department and the General Land Office to conduct joint studies to identify zones in the Gulf of Mexico that would be appropriate for the diversion of marine seawater or the discharge of desalination waste, taking into account the protection of marine organisms, and recommend zones for designation by the TCEQ by September 1, 2018. The TCEQ must adopt rules designating appropriate diversion and discharge zones by September 1, 2020.

A facility would not have to use a diversion or discharge zone until TCEQ adopted the applicable rules but would have to consult with TPWD and GLO regarding locations for diverting state marine seawater or discharging desalination waste into the Gulf of Mexico.

Desalination of marine seawater for drinking water. The TCEQ must adopt rules allowing marine seawater treated by a desalination facility to be used as public drinking water and ensure that the water met the Health and Safety Code public drinking water requirements.

Construction of a facility that would desalinate marine seawater for drinking water purposes could not begin construction unless approved by TCEQ.

Regional water planning. The floor substitute for HB 2031 would require the regional water plans to identify opportunities for and the benefits of developing large-scale desalination facilities for marine seawater that would serve local or regional entities.

Repealer. The floor substitute for HB 2031 would repeal Water Code, sec. 16.060, which requires the Texas Water Development Board to participate in research, feasibility and facility planning studies, investigations, and surveys as necessary to further the development of cost-effective water supplies from seawater desalination in the state.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

The floor substitute for HB 2031 would streamline the regulatory process and reduce the time required for and cost of marine seawater desalination. Marine seawater is a potential new source for drinking water, and seawater desalination allows for this and other beneficial uses.

The floor substitute for HB 2031 is the product of much stakeholder input to set up a workable permitting process to make use of the vast quantities of marine seawater from the Gulf of Mexico while also protecting the state's bays and estuaries. Marine seawater desalination facilities should be developed in a timely and cost-effective way to help the state meet its current and future water needs.

This bill would provide an expedited and streamlined authorization for marine seawater desalination facilities consistent with appropriate environmental and water rights protections. This would avoid unnecessary costs and delays, while providing the regulatory certainty to encourage the investment of significant resources for the development of such facilities.

Although there are concerns that limiting the permitted area to three miles from the coast would not be protective of bays and estuaries, any farther from the coastline could be cost prohibitive for industry due to the expense of pipelines and other equipment. Three miles from the coastline is well outside any area that would be sensitive to a disruption of the salinity levels, so there would not be a negative impact on the marine ecosystem.

While it is possible that limiting regulations for the period before TCEQ adopted rules could result in a race to start construction, a safeguard was put in place requiring facilities to consult with TPWD and GLO regarding locations for diverting state marine seawater or discharging desalination waste into the Gulf of Mexico. The floor substitute for HB 2031 would allow the time needed for stakeholder involvement to ensure that the rulemaking process was adequately vetted and thorough.

OPPONENTS
SAY:

The floor substitute for HB 2031 would require a permit for a point of diversion and the discharge of desalination waste if either is done within three miles of the coast. Three miles may not be adequately protective of the bays and estuaries. Extending the permitted area to six miles would be more appropriate because there may be some areas of transition that could be impacted by reduced stream flow due to drought conditions.

The floor substitute for HB 2031 would limit regulations for the time period before TCEQ adopted rules for the designation of diversion and discharge zones. This could set up a race to start construction.

NOTES:

The Senate companion, SB 1738 by Hinojosa, was placed on the Senate intent calendar for April 27 and not again placed on the intent calendar on April 29.

SUBJECT: Establishing a Texas State Technical College campus in Ellis County

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 8 ayes — Zerwas, Howard, Clardy, Crownover, Martinez, Morrison,
Raney, C. Turner

0 nays

1 absent — Alonzo

WITNESSES: For — Alan Hugley, City of Red Oak, Texas; (*Registered, but did not
testify*: Jim Pitts)

Against — None

On — (*Registered, but did not testify*: Susan Brown, Texas Higher
Education Coordinating Board; Roger Miller, Texas State Technical
College)

BACKGROUND: Education Code, ch. 135 governs the Texas State Technical College
(TSTC) system, which provides technical-vocational education for which
there is demand in the state. The college, which offers certificate and
associate degree programs, has campuses in Harlingen, Marshall, and
Waco, as well as a campus serving West Texas with permanent locations
in Abilene, Breckenridge, Brownwood, and Sweetwater.

HB 3640 by Pitts, enacted by the 83rd Legislature in 2013, authorized the
creation of a TSTC extension center in Ellis County.

DIGEST: CSHB 1051 would establish a Texas State Technical College (TSTC)
campus in the city of Red Oak in Ellis County.

This bill would take immediate effect if finally passed by a two-thirds
record vote of the membership of each house. Otherwise, it would take
effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1051 would convert a Texas State Technical College (TSTC) extension center in Ellis County into a campus to meet the demands of the local workforce. TSTC North Texas in Ellis County was established by the 83rd Legislature as an extension center with the plan to later convert the site into a campus. CSHB 1051 would fulfill this growth plan and satisfy the community's desire to establish a TSTC campus in the area.

Ellis County, part of the larger Dallas-Fort Worth region, has a growing need for a skilled workforce to attract and retain employers, and TSTC is best situated to address this need. It offers a range of technical programs focused on previously unmet training and education needs in the region. The offerings complement local community college programs and provide a dual-credit program at a local high school. TSTC North Texas is projected to become one of the largest parts of the TSTC system, necessitating independent campus status.

By becoming a campus, TSTC North Texas would become eligible for funds needed to support the institution, such as Higher Education Fund dollars appropriated to the TSTC system and other campus infrastructure funds. The campus designation would not allow TSTC North Texas to offer programs of a different size or scope than other TSTC branches, nor would it increase operational costs for the school.

The expansion would result in only a negligible increase, if any, to the state's appropriation to the TSTC system. The fiscal note for CSHB 1051 assumes the creation of an entirely new campus, whereas the bill instead would build upon an existing location, which would minimize costs. Funding for this transition already appears in both proposals for the fiscal 2016-17 general appropriations act. In addition, HB 100, as passed by the House on April 9, authorizes tuition revenue bonds (TRBs) for the development of a technology center for the TSTC Ellis County campus.

TSTC has a funding model in which funding for each branch depends upon employment after graduation and salary outcomes. Basing certain funding on outcomes helps to ensure that the system are a great investment for the state. While converting to a campus could result in future growth requiring the issuance of additional TRBs, TSTC Ellis County already is eligible to receive TRBs as an extension of another

TSTC campus. The bill would not expand this ability.

CSHB 1051 has support from the local community, which has made significant investments in the school, including the contribution of land and resources for the extension center. By establishing a campus in Ellis County, the community and TSTC could signify their commitment to one another and their joint commitment to economic development and industry.

TSTC North Texas has worked with Navarro College, the local community college, to ensure that programs run by the two schools would not be duplicative. While HB 1051 as introduced would have exempted TSTC North Texas' programs from receiving Texas Higher Education Coordinating Board approval under Education Code, sec. 135.04, CSHB 1051 would maintain this oversight. This would guarantee that education and training offered by TSTC North Texas did not offer redundant curricula or compete with local public junior colleges.

**OPPONENTS
SAY:**

CSHB 1051 could result in added cost to taxpayers to fund higher education by establishing a campus of TSTC in Ellis County. According to the fiscal note, the campus would cost the state \$6.7 million in general revenue during fiscal 2016-17. While technical-vocational training offers a good alternative to increasingly expensive four-year degrees, offerings such as TSTC's could be made by private entities and do not need to be subsidized by the state. In addition, the conversion of TSTC's Ellis County extension center to a campus could result in increased TRBs being issued to the campus, which could result in a greater cost to the state in debt service.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have an estimated negative net impact to general revenue funds of about \$6.7 million through fiscal 2016-17.

The companion bill, SB 420 by Birdwell, was placed on the intent calendar on April 1 and not again placed on the intent calendar on April 8.

SUBJECT: Establishing a pilot program to treat veterans who have PTSD or TBI

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, R. Miller, Sheffield, Zedler, Zerwas

0 nays

1 absent — Guerra

WITNESSES: For — William Duncan, International Hyperbaric Medical Association; Eshel Ben-jacob; Dan Greathouse; Rainey Owen; Matthew Smothermon

Against — None

On — (*Registered, but did not testify*: Robert Dole, Texas Department of State Health Services)

DIGEST: CSHB 175 would require the Department of State Health Services (DSHS) to establish and operate the Veterans Recovery Pilot Program by adding Health and Safety Code, ch. 49. The program would provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible military veterans who had post-traumatic stress disorder (PTSD) or a traumatic brain injury (TBI).

Veterans recovery program and account. The Health and Human Services (HHS) executive commissioner, by rule, would adopt standards for veteran and facility eligibility to participate in the program and to ensure patient confidentiality. Under these standards, eligible facilities would be required to comply with applicable fire codes, oversight requirements, and treatment protocols, and participating veterans would have to live in Texas.

The bill would establish as a general revenue dedicated account the veterans recovery account, which would consist of gifts, grants, and other donations, as well as interest earned on the account. Money in the account

could be used to pay for expenses of administering the pilot program, diagnostic testing and treatment of veterans with PTSD or TBI, and travel and living expenses, if necessary, for a veteran receiving treatment in the pilot program.

The bill would require the DSHS commissioner to seek reimbursements for payments under the program from Medicaid, Medicare, the federal TRICARE health care program, appropriate federal agencies, and other responsible third-party payors.

Hyperbaric oxygen treatment and reimbursement. The bill would require the HHS executive commissioner to adopt standards by rule for the provision of hyperbaric oxygen treatment to veterans who had been diagnosed with PTSD or TBI, had been prescribed hyperbaric oxygen treatment, and agreed to the treatment under the pilot program. Before providing hyperbaric oxygen treatment to a veteran, the facility would be required to develop and submit to DSHS a treatment plan that included specified elements, including an estimate of treatment costs and any travel and living expenses for the veteran. DSHS could not approve the provision of hyperbaric oxygen treatment unless the facility was compliant with DSHS rules and standards and the veteran was eligible for treatment under the program.

The bill would allow a facility to seek reimbursement for care provided to a veteran under the program. The facility could not charge the veteran for treatment, and the veteran would not be liable for any costs related to treatment or other program expenses.

The department would approve each treatment plan that met specified requirements and standards, if sufficient funds were available, and the DSHS commissioner would reserve funds from the account equal to estimated costs. The commissioner would reimburse the facility for treatment provided according to the plan, provided the facility submitted regular reports of the veteran's measured health improvements under the plan. Neither the state nor the veterans recovery account would be liable if expenses exceeded reserved funds.

The bill also would authorize a facility to submit an updated treatment

plan and request the reservation of additional funds for that purpose. It would provide for the termination of funds reserved for treatment or other expenses after a specified period of time had passed during which the facility or veteran did not request reimbursement, subject to notification requirements.

Other provisions. CSHB 175 would allow the DSHS commissioner to appoint an advisory board to assist the department in developing the pilot program. DSHS would submit a report by October 1 of every even-numbered year to the governor, legislative leadership, and appropriate standing committees in both chambers on the effectiveness of the program and the number of veterans and facilities participating in it.

The HHS executive commissioner would adopt rules necessary to implement the chapter by January 1, 2016. The program would expire September 1, 2021, and any remaining balance in the veterans recovery account would be transferred to the general revenue fund.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 175 would benefit Texas veterans by creating a program to treat post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI). By some estimates, as many as 180,000 veterans who live in Texas may suffer to some degree from these conditions or related post-concussion syndrome symptoms acquired during military service. Symptoms of PTSD and TBI can include confusion, headache, fatigue, insomnia, memory loss, mood changes, depression, and anger management issues. Suicide, joblessness, substance abuse, and incarceration are other harmful consequences that too often result from the conditions these injuries can cause. However, effective treatments for such conditions are elusive and mainly consist of counseling, drug therapy, and the passage of time.

The pilot program under the bill would provide some veterans with hyperbaric oxygen treatments that increase the amount of oxygen provided to the brain for specific periods under slightly increased atmospheric pressure. Such treatments have been used to treat these conditions in Israel and elsewhere, and many patients report positive results. Unlike alternatives, such as prescription drug therapy, hyperbaric

oxygen treatments used for other medical purposes appear to have few, if any, adverse side effects.

Although hyperbaric oxygen treatments can be expensive, conventional care for injured veterans tends to cost considerably more and stretches over a longer period of time. Traditional treatments such as drug therapy and counseling may continue for months or years and can be minimally effective. Moreover, veterans who experience relief through hyperbaric oxygen therapy may gain productivity and experience a better quality of life within a relatively short period of receiving treatment. In addition, the pilot program would provide stakeholders with valuable information on the effectiveness of hyperbaric oxygen treatment for helping veterans and others with these debilitating conditions.

**OPPONENTS
SAY:**

CSHB 175 would create a program that relied on potentially unstable sources of funding, including gifts and donations. Federal insurance plans and other third party payors might be unwilling to reimburse costs associated with what could be considered an experimental or “off-label” use of hyperbaric oxygen treatment.

NOTES:

The Legislative Budget Board’s fiscal note estimates the bill would have a net negative impact to general revenue related funds of about \$1.7 million through fiscal 2016-17.

SUBJECT: Statute of limitations for sexual assault, aggravated sexual assault

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Leach, Simpson
1 nay — Shaheen

WITNESSES: For — Elizabeth Donegan, Austin Police; (*Registered, but did not testify*: Jason Sabo, Children at Risk; Ann Hettinger, Concerned Women for America of Texas; Bill Elkin, Houston Police Retired Officers Association; Katherine Barillas, One Voice Texas; Chris Kaiser, Texas Association Against Sexual Assault; Jennifer Allmon, the Texas Catholic Conference of Bishops; Lon Craft, Texas Municipal Police Association; Julie Bassett)

Against — (*Registered, but did not testify*: Mark Bennett, Harris County Criminal Lawyers Association)

On — Kristin Etter, Texas Criminal Defense Lawyers Association

BACKGROUND: Code of Criminal Procedure, art. 12.01 establishes statutes of limitations for filing criminal charges. There is no statute of limitations for sexual assault of a child, aggravated sexual assault of a child, or sexual assaults if during the investigation biological matter was collected and subjected to DNA testing and the testing showed that the matter did not match the victim or anyone else whose identity was known.

For all other sexual assaults, the statute of limitations is 10 years from the date of the offense. This means that formal charges in a case must be presented within 10 years from the date of the commission of the offense.

DIGEST: HB 189 would remove the statute of limitation for all sexual assault and aggravated sexual assault offenses, leaving those offenses with no limitation.

The bill would take effect September 1, 2015, and would not apply to

prosecution of offenses barred by the law before that date.

**SUPPORTERS
SAY:**

HB 189 would change the statute of limitations for sexual assault and aggravated sexual assault, which is warranted because of the seriousness of these crimes and the special circumstances that can limit when these victims are ready to speak out about the crime. Despite these circumstances, a measure of justice always should be available to victims of these crimes.

Removing the statute of limitations in these cases would not burden or be unfair to defendants. As in all cases, defendants would be presumed innocent, and accusations would have to be proven beyond a reasonable doubt. Because proving older cases could be difficult, prosecutors would use discretion and be cautious about pursuing questionable cases with weak or little evidence.

**OPPONENTS
SAY:**

HB 189 would be too broad. The current statute of limitations adequately balances the needs of both prosecutors and the accused by allowing no statute of limitations only in narrow circumstances, including those involving a child and those in which there was DNA evidence.

Eliminating the limit for all sexual assault and aggravated sexual assault cases could result in prosecutions in which accused persons were unable to defend themselves adequately. This could be especially true in sexual assault cases with no DNA evidence, which could hinge on the word of one person. Over time, witnesses' memories fade and evidence becomes more difficult to obtain.

**OTHER
OPPONENTS
SAY:**

Rather than eliminate the statute of limitations for all sexual assault and aggravated sexual assault cases, it would be better to limit such a change to cases with multiple victims and the same defendant. This would address the unique circumstances of serial abusers with several victims. In these cases, victims might not come forward until they know of the existence of other victims, or outcry may be delayed for other reasons.

NOTES:

The author plans to offer a floor amendment that would change the statute of limitation only for certain sexual assault cases involving multiple victims. Under the planned amendment, there would be no statute of

limitation if there were probable cause to believe the defendant repeatedly committed the same or similar offense against five or more victims.